

An act to amend Sections 27, 107065, 107075, and 114850 of, to repeal Sections 114890 and 114895 of, and to repeal and add Sections 107070, 107165, and 107170 of, the Health and Safety Code, relating to health care.

SECURED
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THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 27 of the Health and Safety Code is amended to read:

27. For purposes of this code:

(a) "Communicable Disease Prevention and Control Act" means Sections 104730, 104830 to 104860, inclusive, 113150, 113155, Part 1 (commencing with Section 120100) of, Chapter 1 (commencing with Section 120325, but excluding Section 120380) of Part 2 of, Part 3 (commencing with Section 120500) of, and Part 5 (commencing with Section 121350) of, Division 105.

(b) "Hereditary Disorders Act" means Article 1 (commencing with Section 124975) of Chapter 1 of Part 5 of Division 106, and Sections 125050, 125055, 125060, and 125065.

(c) "Maternal and Child Health Program Act" means Section 120380, Chapter 4 (commencing with Section 103925) of Part 2 of Division 102, Article 4 (commencing with Section 116875) of Chapter 5 of Part 12 of Division 104, Article 1 (commencing with Section 123225) of Chapter 1 of Part 2 of Division 106, Article 2 (commencing with Section 125000) of Chapter 1 of Part 5 of Division 106, and Sections 125075 to 125110, inclusive.

(d) "Miscellaneous Food, Food Facility, and Hazardous Substances Act" means Chapter 4 (commencing with Section 108100), Chapter 6 (commencing with Section 108675), and Chapter 7 (commencing with Section 108750) of Part 3 of, Chapter 3 (commencing with Section 111940), Chapter 4 (commencing with Section 111950), Chapter 5 (commencing with Section 112150), Chapter 6 (commencing with Section 112350), Chapter 7 (commencing with Section 112500), Chapter 8 (commencing with Section 112650), Chapter 9 (commencing with Section 112875), Chapter 10 (commencing with Section 113025), and Article 3 (commencing with Section 113250) of Chapter 11, of Part 6 of, and Chapter 4 (commencing with Section 113700) of Part 7 of, Division 104.

(e) "Primary Care Services Act" means Chapter 1 (commencing with Section 124400), Chapter 2 (commencing with Section 124475), Chapter 3 (commencing with Section 124550), Chapter 4 (commencing with Section 124575), Chapter 5 (commencing with Section 124600), Chapter 6 (commencing with Section 124800), and Article 1 (commencing with Section 124875) of Chapter 7 of, Part 4 of Division 106.

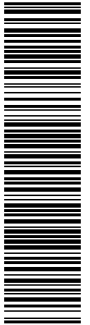
(f) "Radiologic Technology Act" means Sections 106965 to ~~107120~~, 107115, inclusive, and Chapter 6 (commencing with Section 114840) of Part 9 of Division 104.

SEC. 2. Section 107065 of the Health and Safety Code is amended to read:

107065. Every holder of a certificate or a permit issued pursuant to the Radiologic Technology Act (Section 27) may be disciplined as provided in ~~Sections 107065 and 107670~~. Section 107070. The proceedings under ~~Sections 107065 and 107670~~ Section 107070 shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the department shall have all of the powers granted therein.

SEC. 3. Section 107070 of the Health and Safety Code is repealed.

~~107070. Certificates and permits may be denied, revoked, or suspended by the department, for any of the following reasons:~~



~~(a) Habitual intemperance in the use of any alcoholic beverages, narcotics, or stimulants to the extent as to incapacitate for the performance of professional duties.~~

~~(b) Incompetence or gross negligence in performing radiologic technology functions.~~

~~(c) Conviction of practicing one of the healing arts without a license in violation of Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code.~~

~~(d) Procuring a certificate or permit by fraud, or misrepresentation, or because of mistake.~~

~~(e) Use of a designation implying certification as a radiologic technologist by one not so certified.~~

~~(f) Nonpayment of fees prescribed in accordance with Section 107080.~~

~~(g) Violation of Section 106965 or 106980 or any other provision of the Radiologic Technology Act (Section 27) or regulation of the department.~~

~~(h) Conviction, either within or outside of this state, of a felony or misdemeanor involving moral turpitude, that was committed during the performance of radiologic technology duties. A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge of a felony or misdemeanor involving moral turpitude, that was committed during the performance of radiologic technology duties, is deemed to be a conviction within the meaning of this section. However, upon recommendation of either the court that imposed or suspended sentence of the parole or probation authority having a person under surveillance or having discharged him or her from surveillance that the person has responded to correctional and rehabilitative processes to a degree that might warrant waiver of the provisions of this section, the department may, at its discretion, take no action pursuant to this subdivision.~~

SEC. 4. Section 107070 is added to the Health and Safety Code, to read:

107070. Certificates and permits may be denied, revoked, or suspended by the department, for any of the following reasons:

(a) Use of a controlled substance as defined in Division 10 (commencing with Section 11000), a dangerous drug, as defined in Section 4022 of the Business and Professions Code, or alcoholic beverages to an extent or in a manner dangerous or injurious to the certified or permitted individual, any other person, or the public or that would impair the ability to conduct, with safety to the public, the practice authorized by a certificate or permit, or more than one misdemeanor or a felony involving the use, consumption, or self-administration of any of the substances referred to in this subdivision, or any combination thereof.

(b) Unprofessional conduct, including, but not limited to, incompetence or gross negligence, physical, mental, or verbal abuse of patients, or misappropriation of property of patients or others.

(c) Conviction of practicing one of the healing arts without a license in violation of Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code.

(d) Knowingly making or signing a document relating to the practice of radiologic technology that falsely represents the existence or nonexistence of a state of facts.

(e) Making or giving a false statement or information in conjunction with the application for issuance of a certificate or permit and examination application.



(f) Impersonating an applicant, or acting as proxy for an applicant, in any examination required under the Radiologic Technology Act (Section 27) for the issuance of a certificate or permit.

(g) Impersonating another certified or permitted individual, or permitting or allowing another person to use a certificate or permit, for the purpose of providing radiologic technology services.

(h) Violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any provision or term of the Radiologic Technology Act (Section 27), Article 6 (commencing with Section 107150) of Chapter 4 of Part 1 of Division 104, or the Radiation Control Law (commencing with Section 114960), or regulations adopted pursuant to those provisions.

(i) Conviction of a crime substantially related to the qualifications, functions, and duties of a radiologic technologist, holder of a limited permit, or a certified supervisor or operator if the department determines that the applicant or certificate or permitholder has not adequately demonstrated that they have been rehabilitated and will present a threat to the health, safety, or welfare of patients. In determining whether or not to deny, suspend, or revoke an application for certification or permitting or renewal, the department shall take into consideration the following factors as evidence of good character and rehabilitation:

(1) The nature and seriousness of the conduct or crime under consideration and its relationship to the person's employment duties and responsibilities.

(2) Activities since conviction, including employment or participation in therapy or education, that would indicate changed behavior.

(3) The period of time that has elapsed since the commission of the conduct or offense referred to in this subdivision and the number of offenses.

(4) The extent to which the person has complied with any terms of parole, probation, restitution, or any other sanction lawfully imposed against the person.

(5) Any rehabilitation evidence, including character references, submitted by the person.

(6) Employment history and current employer recommendations.

(7) Circumstances surrounding the commission of the offense that would demonstrate the unlikelihood of repetition.

(8) An order from a superior court pursuant to Section 1203.4, 1203.4a, or 1203.41 of the Penal Code.

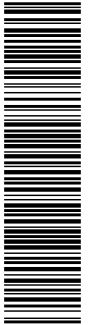
(9) The granting by the Governor of a full and unconditional pardon.

(10) A certificate of rehabilitation from a superior court.

(j) Procuring a certificate or permit by fraud or misrepresentation or because of mistake.

(k) Use of a designation implying certification as a radiologic technologist by one not so certified, holding a limited permit by one not so permitted, or authorization as a certified supervisor or operator by one not so authorized.

(l) Willfully preventing, interfering with, or attempting to impede in any way the work of a duly authorized representative of the department or a local officer or agency authorized to enforce the Radiologic Technology Act (Section 27) or the Radiation Control Law (commencing with Section 114960) during the course of the representative's or officer's lawful enforcement of a provision of the Radiologic



Technology Act (Section 27), the Radiation Control Law, or the rules and regulations adopted pursuant to those provisions.

(m) Nonpayment of fees prescribed in accordance with Section 107080.

(n) Loss of certification from another organization on which the department's issuance was based, if that loss was for cause.

SEC. 5. Section 107075 of the Health and Safety Code is amended to read:

107075. ~~Any person who~~ (a) A person or entity that violates or aids or abets the violation of any of the provisions of the Radiologic Technology Act (Section 27) or regulation of the department adopted pursuant to that act is guilty of a misdemeanor and shall be punished by a fine not to exceed five thousand dollars (\$5,000) per day, per offense or by imprisonment in the county jail not to exceed 180 days, or by both the fine and imprisonment.

(b) (1) A person or entity that intentionally or through gross negligence violates a provision of the Radiologic Technology Act (Section 27) or a regulation adopted pursuant to that act, or who fails or refuses to comply with a cease and desist order or other order of the department issued thereunder, and the action causes a substantial danger to the health of others, shall be liable for a civil penalty not to exceed five thousand dollars (\$5,000) per day, per offense.

(2) The remedies under this section are in addition to, and do not supersede or limit, any and all other remedies, civil or criminal.

SEC. 6. Section 107165 of the Health and Safety Code is repealed.

107165. ~~The establishment of a person as competent to perform nuclear medicine technology may be denied, revoked, or suspended by the department, for any of the following reasons:~~

(a) ~~Habitual intemperance in the use of any alcoholic beverages, narcotics, or stimulants to an extent as to incapacitate for the performance of professional duties.~~

(b) ~~Incompetence or negligence in performing nuclear medicine technology functions.~~

(c) ~~Establishment of competence to perform nuclear medicine technology by fraud, or misrepresentation, or because of mistake.~~

(d) ~~Use of a designation indicating that a person is established by the department as competent to perform nuclear medicine technology by a person who has not been established by the department as competent to perform nuclear medicine technology.~~

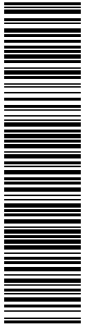
(e) ~~Violation of the provisions of this article or regulations adopted pursuant thereto.~~

~~The proceedings for denial, revocation, or suspension pursuant to this section shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the department shall have all of the powers granted therein.~~

SEC. 7. Section 107165 is added to the Health and Safety Code, to read:

107165. (a) The establishment of a person as competent to perform nuclear medicine technology may be denied, revoked, or suspended by the department, for any of the following reasons:

(1) Use of a controlled substance as defined in Division 10 (commencing with Section 11000), a dangerous drug, as defined in Section 4022 of the Business and Professions Code, or alcoholic beverages to an extent or in a manner dangerous or injurious to the certified or permitted individual, any other person, or the public or that



would impair the ability to conduct, with safety to the public, the practice of nuclear medicine technology, or more than one misdemeanor or a felony involving the use, consumption, or self-administration of any of the substances referred to in this subdivision, or any combination thereof.

(2) Unprofessional conduct, including, but not limited to, incompetence or gross negligence, physical, mental, or verbal abuse of patients, or misappropriation of property of patients or others.

(3) Conviction of practicing one of the healing arts without a license in violation of Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code.

(4) Knowingly making or signing a document relating to the practice of nuclear medicine technology that falsely represents the existence or nonexistence of a state of facts.

(5) Making or giving a false statement or information in conjunction with the application for establishment of competence to perform nuclear medicine technology and examination application.

(6) Impersonating an applicant, or acting as proxy for an applicant, in any examination required under this article for the establishment of competence to perform nuclear medicine technology.

(7) Impersonating another individual who has established competence to perform nuclear medicine technology under this article or permitting or allowing another person to use that establishment for the purpose of performing nuclear medicine technology.

(8) Violating or attempting to violate, directly or indirectly, assisting in or abetting the violating of, or conspiring to violate any provision or term of this article, the Radiologic Technology Act (Section 27), or the Radiation Control Law (commencing with Section 114960), or regulations adopted pursuant to those provisions.

(9) Conviction of a crime substantially related to the qualifications, functions, and duties of a nuclear medicine technologist, if the department determines that the applicant or individual who has established competence to perform nuclear medicine technology has not adequately demonstrated that they have been rehabilitated, and will present a threat to the health, safety, or welfare of patients. In determining whether or not to deny, suspend, or revoke establishment of competence or renewal of such establishment, the department shall take into consideration the following factors as evidence of good character and rehabilitation:

(A) The nature and seriousness of the conduct or crime under consideration and its relationship to their employment duties and responsibilities.

(B) Activities since conviction, including employment or participation in therapy or education, that would indicate changed behavior.

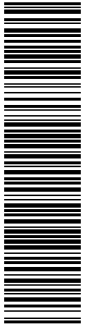
(C) The period of time that has elapsed since the commission of the conduct or offense referred to in this subdivision and the number of offenses.

(D) The extent to which the person has complied with any terms of parole, probation, restitution, or any other sanction lawfully imposed against the person.

(E) Any rehabilitation evidence, including character references, submitted by the person.

(F) Employment history and current employer recommendations.

(G) Circumstances surrounding the commission of the offense that would demonstrate the unlikelihood of repetition.



(H) An order from a superior court pursuant to Section 1203.4, 1203.4a, or 1203.41 of the Penal Code.

(I) The granting by the Governor of a full and unconditional pardon.

(J) A certificate of rehabilitation from a superior court.

(10) Establishment of competence to perform nuclear medicine technology by fraud or misrepresentation or because of mistake.

(11) Use of a designation implying one has established with the department competence to perform nuclear medicine technology by one who has not so established competence.

(12) Willfully preventing, interfering with, or attempting to impede in any way the work of a duly authorized representative of the department or a local officer or agency authorized to enforce this article, the Radiologic Technology Act (Section 27), or the Radiation Control Law (commencing with Section 114960) during the course of that representative's or officer's lawful enforcement of any provision of this article, the Radiologic Technology Act (Section 27), the Radiation Control Law, or the rules and regulations adopted pursuant to those provisions.

(13) Nonpayment of fees prescribed in accordance with Section 107160.

(14) Loss of certification from another organization on which the department's issuance was based on, if that loss was for cause.

(b) The proceedings for denial, revocation, or suspension pursuant to this section shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the department shall have all of the powers granted therein.

SEC. 8. Section 107170 of the Health and Safety Code is repealed.

~~107170. Any person who violates this article or any regulation adopted pursuant thereto shall be guilty of a misdemeanor.~~

SEC. 9. Section 107170 is added to the Health and Safety Code, to read:

107170. (a) A person or entity that violates, or aids or abets the violation of, this article or a regulation adopted pursuant to this article shall be guilty of a misdemeanor and shall be punished by a fine not to exceed five thousand dollars (\$5,000) per day, per offense or by imprisonment in the county jail not to exceed 180 days, or by both the fine and imprisonment.

(b) A person or entity who intentionally or through gross negligence violates a provision of this article or regulation adopted pursuant to this article, or who fails or refuses to comply with a cease and desist order or other order of the department issued thereunder, and the action causes a substantial danger to the health of others, shall be liable for a civil penalty not to exceed five thousand dollars (\$5,000) per day, per offense.

(c) The remedies under this section are in addition to, and do not supersede or limit, any and all other remedies, civil or criminal.

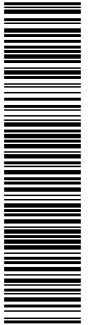
SEC. 10. Section 114850 of the Health and Safety Code is amended to read:

114850. ~~As used in~~ For the purposes of the Radiologic Technology Act (Section 27) and this chapter:

(a) "Department" means the State Department of Public Health.

(b) "Committee" means the Radiologic Technology Certification Committee.

(c) "Radiologic technology" means the application of x-rays on human beings for diagnostic or therapeutic purposes.



(d) "Radiologic technologist" means any person, other than a licentiate of the healing arts, making application of x-ray to human beings for ~~diagnostic~~ diagnostic, mammographic, or therapeutic purposes pursuant to subdivision (b) of Section 114870.

(e) "Limited permit" means a permit issued pursuant to subdivision (c) of Section 114870 or Section 114871 to persons to conduct radiologic technology limited to the performance of certain procedures or the application of x-rays to specific areas of the human body, except for a mammogram.

(f) "Approved school for radiologic technologists" means a school or approved educational program that the department has determined provides a course of instruction in radiologic technology that is adequate to meet the purposes of the Radiologic Technology Act (Section 27).

(g) "Supervision" means responsibility for, and control of, quality, radiation safety, and technical aspects of all x-ray examinations and procedures.

(h) (1) "Licentiate of the healing arts" means a person licensed under the provisions of the Medical Practice Act, the provisions of the initiative act entitled "An act prescribing the terms upon which licenses may be issued to practitioners of chiropractic, creating the State Board of Chiropractic Examiners and declaring its powers and duties, prescribing penalties for violation thereof, and repealing all acts and parts of acts inconsistent herewith," approved by electors November 7, 1922, as amended, or the Osteopathic Act.

(2) For purposes of Section 114872, a licentiate of the healing arts means a person licensed under the Physician Assistant Practice Act (Chapter 7.7 (commencing with Section 3500) of Division 2 of the Business and Professions Code) who practices under the supervision of a qualified physician and surgeon pursuant to the act and pursuant to Division 13.8 of Title 16 of the California Code of Regulations.

(i) "Certified supervisor or operator" means a licentiate of the healing arts who has been certified under subdivision (e) or (f) of Section 114870 or 107111 to supervise the operation of x-ray machines or to operate x-ray machines, or both.

(j) "Student of radiologic technology" means a person who has started and is in good standing in a course of instruction that, if completed, would permit the person to be certified a radiologic technologist or granted a limited permit upon satisfactory completion of any examination required by the department. "Student of radiologic technology" does not include any person who is a student in a school of medicine, chiropractic, podiatry, dentistry, dental radiography, or dental hygiene.

(k) "Mammogram" means an x-ray image of the human breast.

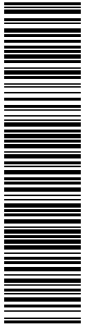
(l) "Mammography" means the procedure for creating a mammogram.

SEC. 11. Section 114890 of the Health and Safety Code is repealed.

~~114890. Notwithstanding Section 107075, any person who violates any provision of this chapter relating to mammography or regulations adopted pursuant to those provisions is guilty of a misdemeanor and shall, upon conviction, be punished by a fine not to exceed five thousand dollars (\$5,000) per day, per offense or by imprisonment in the county jail not to exceed 180 days, or by both the fine and imprisonment.~~

SEC. 12. Section 114895 of the Health and Safety Code is repealed.

~~114895. (a) Any person who intentionally or through gross negligence violates any provision of this chapter relating to mammography, or any rule or regulation adopted relating to mammography, or who fails or refuses to comply with a cease and~~

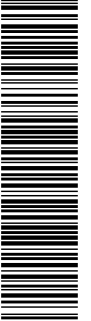


~~desist order or other order of the department issued thereunder, which action causes a substantial danger to the health of others, shall be liable for a civil penalty not to exceed five thousand dollars (\$5,000) per day, per offense.~~

~~(b) The remedies under this section are in addition to, and do not supersede or limit, any and all other remedies, civil or criminal.~~

SEC. 13. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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LEGISLATIVE COUNSEL'S DIGEST

Bill No.
as introduced, _____.
General Subject: Health care: professional certifications and permits.

Existing law, the Radiologic Technology Act, requires the State Department of Public Health to provide for the certification in diagnostic, mammographic, and therapeutic radiologic technology. Existing law also makes the department responsible for regulating people who perform nuclear medicine technology and radiologic technology, including mammography.

Existing law subjects a person who is regulated as radiologic technologist or competent to perform nuclear medicine technology to discipline for specified reasons, including habitual intemperance in the use of alcoholic beverages, narcotics, or stimulants, as to incapacitate for the performance of professional duties, incompetence, negligence, or gross negligence in performing their functions, and violation of specified statutes or regulations. Existing law also authorizes the department to deny, revoke, or suspend a certificate or permit for a conviction of more than one misdemeanor or a felony involving moral turpitude that was committed during the performance of radiologic technology duties.

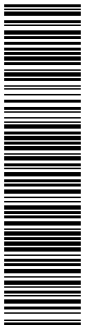
This bill would revise and recast the provisions relating to the discipline of a radiologic technologist or a person competent to perform nuclear medicine technology by, among other things, expanding the list of conduct for which they may be disciplined, including the addition of unprofessional conduct and making or giving a false statement or information in conjunction with the application for establishment of competence.

Under existing law, a person who violates, or aids or abets the violation of, provisions relating to radiological technologists or nuclear medicine technology is guilty of a misdemeanor. A person who violates the provision relating to mammography is guilty of a misdemeanor punishable by a fine not to exceed \$5,000 per day, per offense or by imprisonment in the county jail not to exceed 180 days, or by both the fine and imprisonment. Under existing law, a person who intentionally or through gross negligence violates the act relating to mammography, or who fails or refuses to comply with a cease and desist order or other order of the department and causes a substantial danger to the health of others is also liable for a civil penalty not to exceed \$5,000 per day, per offense.

This bill would also make it a misdemeanor for an entity to violate, or aid and abet the violation of, the act. The bill would make any violation of the act punishable in the same manner as the provisions relating to mammography and would make conforming changes.

By expanding the scope of existing crimes, this bill would create a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.



This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

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